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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,010	07/25/2003	William Kress Bodin	AUS920030242US1	3681
34533	7590	11/10/2005	EXAMINER	
INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469			FERNANDEZ RIVAS, OMAR F	
			ART UNIT	PAPER NUMBER
			2129	

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/627,010	<b>Applicant(s)</b> BODIN ET AL.	
	<b>Examiner</b> Omar F. Fernández Rivas	<b>Art Unit</b> 2129	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/03/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-18 are pending on this application.

### ***Specification***

2. The disclosure is objected to because of the following informalities: on paragraph 67 there is reference to a "services gateway (126) in figure 1 while part 126 references a "services framework". Also on paragraph 80 there is reference to a "services gateway (106)" in figure 2 while no part labeled 106 is present in the figure. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. If the "acts" of a claimed process manipulate only numbers, abstract concepts or ideas, the acts are not being applied to appropriate subject matter. *Shrader*, 22 F.3d at 294-95, 30 USPQ2d at 1458-59. Thus a process consisting solely of mathematical operations, i.e., converting one set of numbers into another set of numbers, does not manipulate appropriate subject matter and thus cannot constitute a statutory process. See MPEP 2106 IV B 1.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the progress of science and the useful arts (i.e., the physical sciences as opposed to social sciences, for example), and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the process must somehow apply, involve, use, or advance the technological arts.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Snell (US Patent #5,518,001, referred to as **Snell**).

**Claims 1, 7 and 13**

Snell anticipates creating a user metric vector comprising a plurality of disparate user metrics (**Snell**, C2: 17-22; Examiner Note (EN): A metric vector is comprised of different measurements of a user's conditions as stated by the applicant on paragraph 164, lines 1-6);

creating a user metric space comprising a plurality of metric ranges receiving, from a user, a value for a user preference for a device (**Snell**, C2: 22-28; Examiner Note (EN): By selecting the amount of sensors to use, a metric space is defined);

determining whether a user metric vector is outside the user metric space (**Snell**, C2: 25-28; Examiner Note (EN): An abnormal event is outside the metric space);

if the user metric vector is outside a user metric space, identifying an action (**Snell**, C6: 61-65);

executing the action (**Snell**, C6: 61-65);

and setting the value of a user preference for a device in dependence upon the value received from the user (**Snell**, C5: 48-53).

#### **Claims 2, 8 and 14**

Snell anticipates receiving, from a user, a value for a user preference for a device comprises: detecting a device (**Snell**, C3: 23-27);

and identifying a user preference the device supports (**Snell**, C5: 48-53).

#### **Claims 3, 9 and 15**

Snell anticipates detecting a device comprises polling an interface (**Snell**, C5: 48-53).

**Claims 4, 10 and 16**

Snell anticipates receiving, from a user, a value for a user preference for a device comprises providing the user with a prompt for a value of a user preference (**Snell**, C5: 48-53);

and obtaining, from the user, the value of the user preference in response to the prompt (**Snell**, C5: 48-53).

**Claims 5, 11 and 17**

Snell anticipates receiving, from a user, a value for a user preference for a device comprises storing the value of the user preference (**Snell**, C5: 57-64; EN: By programming the device, the user preferences are stored in memory).

**Claims 6, 12 and 18**

Snell anticipates setting the value of a user preference on a device in dependence upon the value received from the user comprises: detecting a device (**Snell**, C3: 23-27);

identifying a user preference that the device supports (**Snell**, C5: 48-53).

retrieving a value for the user preference for the device from a user preference table (**Snell**, C3: 20-23; EN: The instructions contain user preferences and these are retrieved when the device is in use. Data is stored in memory in an arrangement similar to a table);

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and changing the value of the user preference for the device in dependence upon the retrieved value (**Snell**, C5: 57-64). retrieved value.

### ***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kroll et al US Patent #6,645,153

Kazemi et al US Patent #6,381,556

Nappholz US Patent #5,792,197

2. Claims 1-18 are rejected.

### ***Correspondence Information***

3. Any inquires concerning this communication or earlier communications from the examiner should be directed to Omar F. Fernández Rivas, who may be reached Monday through Friday, between 8:00 a.m. and 5:00 p.m. EST. or via telephone at (571) 272-2589 or email [omar.fernandez\\_rivas@uspto.gov](mailto:omar.fernandez_rivas@uspto.gov).

If you need to send an Official facsimile transmission, please send it to (571) 273-8300.

If attempts to reach the examiner are unsuccessful the Examiner's Supervisor, David Vincent, may be reached at (571) 272-3080.

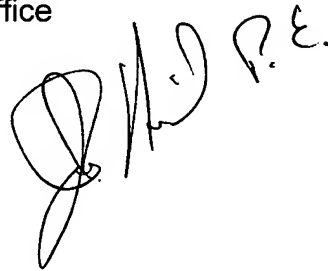
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Hand-delivered responses should be delivered to the Receptionist @ (Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22313), located on the first floor of the south side of the Randolph Building.

Omar F. Fernández Rivas  
Patent Examiner  
Artificial Intelligence Art Unit 2129  
United States Department of Commerce  
Patent & Trademark Office

Friday, October 28, 2005

OFR

A handwritten signature in black ink, appearing to be 'OFR', with a large, stylized initial 'O' and 'F'.